

# **EXHIBIT A**



**Steven Donziger**

@SDonziger

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In an act of Trump-style retribution, Judge Kaplan says he will prosecute me for "criminal contempt" for refusing an unlawful order to turn over my computer, cell and passport to @Chevron. A Chevron partisan should not sit on the bench. Read:

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AUGUST 1, 2019

## **US Judge Retaliates Against Human Rights Lawyer For Refusing To Turn Over Computer and Cell Phone to Chevron In Ecuador Pollution Battle**

**In SLAPP Attack, Lewis A. Kaplan  
Continues to Try To Rescue Oil Giant  
From \$12b Pollution Judgment That  
Is Killing Off Indigenous Peoples**

New York – Human rights defender Steven Donziger today criticized another SLAPP-style move by U.S. Judge Lewis A. Kaplan to try to insulate Chevron from the \$12 billion Ecuador pollution judgment by holding him in “criminal contempt” for refusing to turn over his personal computer and cell phone to the company during ongoing civil enforcement proceedings.

Kaplan, who has been facilitating Chevron’s attacks on Donziger and his Indigenous clients for years while the judgment enforcement case against the oil giant continues, personally filed criminal charges against the

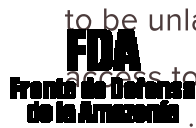
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Francisco Donziger  
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advocate after he resisted a court order that he turn over privileged communications concerning enforcement of the judgment. Donziger's clients and their counsel have ordered him not to turn over the communications or his computer and cell phone, saying to do so would violate their rights.



Turning over the communications would completely undermine the rights of his clients, said Donziger – essentially “giving Chevron backdoor access to spy on everything we are planning, thinking and doing with counsel in enforcement jurisdictions and other advocates around the world to hold Chevron accountable. If this order goes through, Chevron lawyers will literally be inside my computer and cell phone and on my brain and have access to the thought process of almost everybody involved in this critically important human rights case. That would be very scary and set a horrible precedent for human rights and the law.

“The larger issue is that for years Judge Kaplan has issued a series of pro-Chevron rulings from the bench that seem designed to rescue a major American company from an adverse foreign court ruling,” said Donziger, noting that Chevron faces a [criminal referral letter](#) signed by major human rights groups such as Amnesty International before the Department of Justice based on evidence it committed fraud in Kaplan's court. “His latest ruling essentially forces me to choose between observing my ethical duties to my clients in Ecuador, and complying with what appears



to be unlawful court order that will allow Chevron access to a massive trove of privileged communications. That's a tough one, but I cannot throw my clients under the bus and I will do all I can to contest these charges.”

Donziger said he will seek a jury trial if Kaplan presses forward.

Chevron was found liable in Ecuador in 2011 for the dumping of billions of gallons of cancer-causing oil waste onto ancestral lands in the Amazon, decimating Indigenous groups and causing an [epidemic of cancer](#). The disaster is known as the “Amazon Chernobyl” and led to the largest civil judgment for environmental damage in history. (See this [summary of the evidence](#).) The judgment was affirmed by four layers of courts in Ecuador, including last summer by the country’s Constitutional Court. (See [here](#).)

Kaplan’s controversial 2014 ruling in favor of Chevron in a retaliatory “RICO” case filed by the company against the Ecuadorians and Donziger has been rejected by 16 appellate judges in Ecuador, while Canada’s Supreme Court unanimously endorsed the right of the Ecuadorians to pursue a judgment enforcement action. Chevron had insisted the underlying claims be resolved in Ecuador and had promised to pay any adverse judgment, but the company went back on its word after it lost.

Both Chevron and Kaplan have been under enormous pressure due to the risk of the Ecuador liability. Just



last year, Ecuador's Constitutional Court rebuked

Kaplan and Chevron by affirming the Ecuador

judgment unanimously. Several institutional

shareholders also urged Chevron CEO Michael Wirth

to explore a settlement and many [criticized him](#) over

his mishandling of the litigation at the company's

annual meeting in May.

Chevron executives and lawyers also face three

criminal referral letters (see [here](#)) for engaging in

witness fraud and bribery during the case before

Kaplan.

Kaplan's RICO findings in favor of Chevron largely

collapsed when it turned out that a Chevron

investigator had paid the company's star witness,

Alberto Guerra, at least \$2 million in cash and benefits

including \$38,000 out of a suitcase in Ecuador. Guerra

later [admitted under oath that he repeatedly lied](#)

before Kaplan after being coached for 53 days by

Chevron lawyers at the Gibson Dunn firm, which itself

has a [history of committing ethical violations](#) on behalf

of some of its scandal-plagued corporate clients.

Leaders in the environmental community reacted

negatively to Kaplan's move to try to prosecute

Donziger.

"This decision targeting a true hero of the

environmental movement is just the latest chapter in a

long progression of increasingly abusive behavior by

Judge Kaplan to try to block the Ecuador judgment,"

said Rex Weyler, a founder of Greenpeace who has

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written (see [here](#)) about Chevron's abuse of the civil justice system to wage an intimidation campaign against the Ecuadorians and their counsel. "It is obvious to anyone observing this proceeding that Judge Kaplan is a Chevron partisan, not a fair judge, and that he has become personally infatuated with trying to bully and hurt Mr. Donziger."



"This is yet another move by Judge Kaplan to help Chevron's attempt to stop Mr. Donziger from continuing to advocate for justice in Ecuador. Kaplan's ruling which relies on the testimony of Chevron's bribed witness who admitted to lying on the stand, is being used to allow Chevron to intimidate and harass those who continue to support justice in the Ecuadorian Amazon. The human rights and environmental community will continue to oppose these unethical tactics," said Paul Paz y Miño, Associate Director of Amazon Watch who has worked closely on this case for well over a decade. "I have had the privilege of watching Donziger - a fierce advocate for justice - fight back against Chevron baseless attacks for years all as part of their stated strategy to "demonize Donziger' as their own internal emails show."

Kaplan also announced he was appointing a private attorney who is a former clerk in his court to prosecute Donziger and he assigned the case to a longtime colleague, Loretta Preska, rather than using the random judge-selection process. Government



prosecutors had rejected Kaplan's request that they take the case.



**Here is Donziger's full statement in response to Kaplan's latest order:**

I strongly believe Judge Kaplan's latest ruling ordering that I be held in criminal contempt for refusing to turn over my computer, cell phone, and passport to Chevron is unlawful. The fact Judge Kaplan issued this order based on disputed findings in a civil case that have been rejected by 16 appellate judges in other jurisdictions reflects poorly on his own integrity. As fully documented in various court filings, Judge Kaplan has also committed multiple questionable, intellectually dishonest, and even corrupt acts to manipulate evidence and deliver outcomes to Chevron designed to undermine the legitimate Ecuador judgment, which has been affirmed unanimously by the country's highest court. The Supreme Court of Canada also has endorsed the right of the Ecuadorians to pursue enforcement of the judgment notwithstanding Judge Kaplan's disputed findings.

More broadly, several of Judge Kaplan's recent orders in this matter directly violate appellate court decisions in three countries – the United States, Canada, and Ecuador – authorizing me and others to enforce the Ecuador judgment against Chevron assets. Judge Kaplan has a long history of engaging in attacks on me and my family –

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including on my wife and young son – and he has a history of questionable behavior that reflects poorly on the reputation of the U.S. judiciary, as outlined in my statement of June 20, 2019 (see [here](#)). I expect to address these latest allegations in court and I will continue efforts to assist my clients in holding Chevron fully accountable for its human rights violations and attacks on Indigenous culture in Ecuador.



### **Background**

In his order, Kaplan disclosed that the U.S. Attorney's Office in New York (known as the SDNY) refused his request to prosecute Donziger on the contempt charges. As a result, Kaplan appointed three private lawyers from a corporate securities law firm and gave them full police powers, including the right to apply for warrants to search Donziger's home. The specific lawyer Kaplan appointed, Mary Glavin, is a former clerk for Kaplan's own court.

Donziger is appealing Judge Kaplan's order that he turn over his electronic devices and passport, saying they violate his Constitutional rights. It is highly unusual for a judge to move on criminal contempt charges on an issue that is still under appeal.

Kaplan also used his disputed RICO decision to orchestrate the interim suspension of Donziger's law license without a hearing. Donziger's post-suspension bar hearing, where he will attempt to lift the suspension, is scheduled last three days beginning

September 16 in Manhattan and he has lined up several prominent lawyers to testify on behalf of his character and explain Judge Kaplan's bias.

In his latest order prosecuting Donziger, Kaplan tried to set a trial date for Sept. 23 or just days after Donziger's bar hearing. Donziger said Kaplan's attempt to control the date of trial in a case presided over by another judge is inappropriate and an attempt to interfere with his ability to prepare for the bar hearing.

Donziger also has won significant support from prominent lawyers such are Harvard Law Professor Charles Nesson, first Amendment Scholar Marty Garbus, trial lawyer Rich Friedman, and San Francisco-based trial lawyer John Keker. Keker accused Kaplan of letting the "RICO" case "degenerate into a Dickensian farce" because of the judge's "implacable hostility" toward Donziger. (See [here](#) for article on support for Donziger.)

### **Supporting Materials**

[Article on Chevron intimidation campaign from Rex Weyler, a founder of Greenpeace.](#)

[Amnesty International Demands U.S. Dept. of Justice Investigate Chevron for Witness Bribery and Fraud](#)

[Donziger statement responding to Kaplan's attacks on human rights advocacy and his own questionable ethical behavior.](#)



[Support rising for Steven Donziger's demand that he be allowed to present evidence of Chevron fraud in bar proceeding.](#)



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